



2015 Trafficking in Persons Report - Ukraine

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UKRAINE: Tier 2 Watch List

Ukraine is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Ukrainian victims are subjected to sex trafficking and forced labor in Ukraine as well as in Russia, Poland, Turkey, the United States, and other parts of Europe, Central Asia, and the Middle East. Ukrainian women and children are subjected to sex trafficking within the country. Some Ukrainian children and vulnerable adults are subjected to forced begging. A small number of foreign nationals, including those from Moldova, Russia, Vietnam, Uzbekistan, Pakistan, Cameroon, and Azerbaijan, are subjected to forced labor in Ukraine in a variety of sectors including construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and street begging. The approximately 82,000-200,000 children institutionalized in state-run orphanages are especially vulnerable to being subjected to trafficking. Officials of several state-run institutions and orphanages are allegedly complicit or willfully negligent to the sex and labor trafficking of girls and boys under their care.

Russia's aggression that has fueled the conflict in eastern Ukraine has displaced over 1.3 million people, and this population is especially vulnerable to exploitation. There have been reports of kidnapping of women and girls from conflict-affected areas for the purposes of sex and labor trafficking. Russian-separatist forces fighting in Ukraine's eastern oblasts of Luhansk and Donetsk have reportedly employed minors as soldiers, informants, and used them as human shields. This reported recruitment and usage of minors as combatants took place on territory not under control of the central government, or in areas where the central government is unable to enforce national labor law due to the military conflict. In addition, self-proclaimed separatist leader Aleksandr Zakharchenko has allegedly stated that children as young as 14 are fighting in his rebel unit. Media sources have reported over a dozen cases of the use of children in the conflict by combined Russian-separatist forces. In addition, although the Government of Ukraine has proactively enforced prohibitions against the use of children under 18 in the conflict, credible media sources have reported one to two incidents of children as young as 16 fighting with Ukrainian forces not under direct control of the government.

The Government of Ukraine does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these measures, the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period; therefore, Ukraine is placed on Tier 2 Watch List for a third

consecutive year. Ukraine was granted a waiver from an otherwise required downgrade to Tier 3 because its government has a written plan that, if implemented, would constitute making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking and it has committed to devoting sufficient resources to implement that plan.

During the reporting period, the government assisted foreign counterparts on transnational trafficking investigations and partnered with international experts to provide specialized training to over 750 public officials on victim identification and assistance. However, the government's anti-trafficking capacity was constrained by the need to dedicate resources to improving the security situation caused by Russian aggression. Government efforts were also constrained by poor coordination at the national level, a lack of understanding in government agencies about the issue, and corruption, which undermined governance and the rule of law. The government relied on foreign donors and NGOs to fund and provide the majority of victim services. Victim identification remained inadequate, and only a small portion of victims assisted by NGOs were referred to care or certified by the government. The number of trafficking prosecutions and convictions declined sharply, continuing a multi-year decline, and the majority of convicted traffickers were not sentenced to prison.

RECOMMENDATIONS FOR UKRAINE:

Vigorously investigate trafficking offenses and prosecute and convict traffickers and officials complicit in trafficking; provide victims with assistance under the trafficking law or fund NGOs providing services and shelter; provide funding adequate to fully implement the national action plan; increase training for officials on victim identification, particularly in the proactive screening of vulnerable populations, such as individuals in prostitution and internally displaced persons (IDPs); sensitize judges to the severity of this crime to ensure convictions result in proportionate and dissuasive sentences; increase training for law enforcement, prosecutors, and judges in the investigation and prosecution of trafficking cases; certify more victims to ensure they are afforded their rights under the trafficking law; harmonize migration employment and trafficking laws to clarify foreign trafficking victims are eligible for temporary residency and for employment authorization; and provide victims with protective measures allowed under the witness protection law.

PROSECUTION

The government demonstrated weakened law enforcement efforts in pursuing trafficking cases, given its focus of resources on fighting Russian aggression. Article 149 of the criminal code prohibits all forms of trafficking and prescribes penalties from three to 15 years' imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Law enforcement investigated 109 trafficking offenses in 2014, compared with 130 in 2013. Authorities initiated prosecutions of 42 defendants under Article 149, compared with 91 cases in 2013. The government convicted 57 traffickers in 2014 under Article 149, a decline from 109 in 2013. Of the 36 convicted traffickers who had been sentenced at the close of 2014, 15 were sentenced to prison terms ranging from one to 10 years, and the government confiscated the assets of seven defendants. Authorities collaborated with foreign governments on transnational investigations. The government, in conjunction with international funding and partners, provided training to 277 judges, prosecutors, and law enforcement officers. The government did not report any investigations, prosecutions, or convictions of government officials complicit in human trafficking offenses, despite reports of government corruption and official complicity in the sex and labor trafficking of children housed in state-run institutions and orphanages.

PROTECTION

The government did not demonstrate progress in protection efforts. In 2014, IOM assisted 903 victims, compared with 929 in 2013. The government identified 91 victims in 2014, the third consecutive year in which authorities identified fewer victims. The percentage of victims referred to NGOs by law enforcement and other authorities continued to decrease. Observers reported police did know how to screen individuals in prostitution for signs of trafficking. The government approved 27 out of 48 applications for official victim status under the 2011 trafficking law; GRETA reported victim status was sometimes denied due to applications lacking particular documents, such as police reports, though this was not a requirement under the law. GRETA emphasized the contrast in the number of victims assisted by IOM versus the number certified by the government and observed the government's current procedure to identify victims relies on the victims – who are often exiting traumatic situations – to self-report and provide evidence of their victimization.

International donors continued to provide the majority of funding for anti-trafficking activities and assistance to victims. The government disbursed 80,000 hryvnia (\$3,700) from the central budget for anti-trafficking measures in 2014; the budget, formulated in 2012, had planned for 845,427 hryvnia (\$39,100). In April 2013, the government adopted procedures allowing NGOs to request financial support, although it had not announced a competition for funds by the end of the reporting period. The government provided each of the 27 officially recognized victims with financial assistance in the amount of 1,176 hryvnia (\$54). The trafficking law entitles victims to receive free temporary housing at a government shelter, psychological assistance, medical services, employment counseling, and vocational training. The government operated social service centers responsible for assessing victims' needs and drafting rehabilitation plans. Victims who required shelter could stay at government-run centers for socio-psychological assistance for up to 90 days and receive psychological and medical support, lodging, food, and legal assistance. Women and men were accommodated in separate rooms. GRETA reported the provision of assistance was problematic due to funding shortfalls and shortage of trained staff. Non-governmental partners delivered assistance not provided by public social services. The majority of victims requiring shelter were housed at a rehabilitation center run by IOM. Child victims could be accommodated in centers for socio-psychological rehabilitation of children for up to 12 months and receive social, medical, psychological, education, legal, and other types of assistance; four child victims of forced begging stayed at these centers before being transferred to foster care. The government, in coordination with IOM, trained over 2,500 officials on victim identification and assistance in 2014, compared with 750 officials in 2013.

The trafficking law affords foreign victims the right to remain in the country, but that right is not explicitly incorporated into the Law on the Legal Status of Foreigners; as a result, foreign victims have had difficulties obtaining legal status to stay in Ukraine and be eligible to receive ongoing access to victim services. In 2014, the migration authorities registered two foreign victims who received official victim status in 2012, enabling their legal stay. Employment laws had not been amended to allow certified foreign victims to work legally, as provided in the trafficking law. In 2014, 121 victims participated in the prosecution of alleged traffickers. Courts have the authority to order compensation for victims that sought restitution, but the administration of these decisions was hampered by unavailability of assets, corruption, and low effectiveness of the enforcement process. Various protective measures were available for victims who testified at trial, but in practice these measures were rarely applied, and trafficking victims serving as witnesses were often not treated in a victim-sensitive manner.

PREVENTION

The government continued some prevention activities. The government had a national action plan for 2012-2015 and spent 250,100 hryvnia (\$11,600) from state and local budgets for awareness campaigns, which particularly targeted young individuals seeking employment abroad. The

Ministry of Social Policy continued in its role as national anti-trafficking coordinator and published a report on its activities in 2014. The government did not incorporate the labor inspectorate into its anti-trafficking measures, though worksite inspections could reveal situations of trafficking. The government, in continued cooperation with IOM, conducted counter-trafficking pre-deployment trainings for Ukrainian troops assigned to multinational missions. The government provided anti-trafficking training for its diplomatic personnel. The government did not demonstrate specific efforts to reduce the demand for commercial sex acts and forced labor.

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